

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE V. GOPALA GOWDA

WRIT PETITION Nos. 15260 & 15261/1994

BETWEEN:

Smt.Padmakshiamma, w/o
Late Narasimha Potti,
r/a Dhanalakshmi Building,
Church Road, Alleppy,
Kerala-688 010

rep by her G.P.A.Holder,
Sri.N.Raja Gopal, s/o Late
Narasimha Potti, adult, r/a
Dhanalakshmi Building,
Church Road, Alleppy, Kerala. .. Petitioner

(By Sri K.Sanath Kumar Shetty, Adv.,)

AND:

1. Kalappa Shetty

(Petition abated against
R1 as per Court Order
dated 30.5.97)

2. Smt.Vanajakshi Shetty

Both are adults and children
of Late Annapa Shetty,
Innanje Village, Udupi Tq.,
D.K.

3. The Land Tribunal, rep by
its Chairman, Udupi, D.K.



4. State of Karnataka
rep by its Secretary
to the Dept. of Revenue,
M.S.Building, Dr.Ambedkar
Veedhi, Bangalore-560 001. . . Respondents

(By Sri V.V.Upadhyaya, Adv., for R2;
Smt.Bharathi Nagesh, HCGP, for R3 & 4)

These Writ Petitions are filed under Articles 226 and 227 of the Constitution of India, praying to quash the order dt. 13-8-91 passed by R-3 vide Annexure 'A' and the order dt. 4-9-92 passed by the Land Tribunal vide Annexure 'B' and etc.,

These Writ Petitions coming on for hearing this day, the Court made the following :-

O R D E R

On the short ground, these writ petitions have to be allowed.

2. The grievance of the petitioners are that, the respondent herein granted occupancy rights by its order dated 13.8.81 vide Annexure A. As on that date, undisputedly, the husband of the petitioner was no more. He died on 6.8.1974. To substantiate this fact, the petitioner has produced the death certificate at Annexure-Cl. Therefore, the order passed by the second respondent - Land Tribunal against a dead person is a nullity in the eye of law.



: 3 :

The learned counsel for the petitioner submits that on this ground alone, the impugned order is liable to be quashed. The second submission is that, respondents 1 and 2 after disposal of Form No.7, filed an application after a long lapse of 11 years seeking amendment to Form No.7 and to amend the same by mentioning the correct Sy.Nos. in respect of which occupancy rights were sought to be granted in their favour.

2. The learned counsel submits that the application is not maintainable for the reason that beyond the limitation prescribed by the Government to submit Form No.7, applications claiming occupancy rights in respect of tenancy lands was expired on 30.6.1979.

3. I am satisfied that the impugned order passed by the Tribunal was against the husband of the petitioner who was no more as on the date of the impugned order. Hence, the impugned order is nullity in the eye of law. In so far as the amendment application is concerned, this court will not express its opinion with regard to its maintainability, as

[Signature]

: 4 :

U.S.Y

the case is being remitted back to the Tribunal for consideration. Hence, I pass the following order:

The Writ Petitions are allowed. Rule made absolute. The impugned orders at Annexure-A and B are hereby quashed. The matter is remitted back to the respondent Tribunal for fresh consideration after giving notice to both the contesting parties and determine the rights of the parties in accordance with law including the amendment application and the claim petition by ^{the} respondents 1 and 2 within six months from the date of receipt of this order.

Sd/-
JUDGE

SK/vgh

